

### **REMARKS**

Reconsideration of the application as amended is respectfully requested.

#### **Rejection under Section 112, Second Paragraph**

Claims 11, 13-28, 31-34 and 36-42 were rejected on 35 U.S.C. §112, second paragraph. Although applicant believes that the claims meet the requirements of Section 112, and therefore traverses the rejection, it has attempted to address what it believes are the preferences of the examiner in the foregoing amendments.

#### **Rejection under Section 103**

Previously pending claims 11-28 and 31-42 were rejected under the 35 U.S.C. §103, based on Downs, the primary reference, in combination with Buchheit and, the case of several dependent claims, also on Heer.

Applicants respectfully traverse this rejection on grounds that the examiner has not established a *prima facie* case of obviousness. It is submitted that modifying Downs in the manner suggested by the examiner would constitute a material change to the manner in which Downs functions, which suggests that the invention is not obvious. Downs, it is submitted, appears to pertain to a complex system for distributing a watermarked content to an end user. As understood by the undersigned representative, it requires the use of a clearinghouse to distribute a key 623 that water marks the content. This key 623 is presumably what the examiner considers to be the authorization code. The key appears to be encrypted using the public key of a clearinghouse. It is provided to the end user in a transaction container 640, along with usage conditions. In order for the end user to decrypt the key, it must send the key to the clearinghouse with store usage conditions and transaction information. The clearinghouse then decrypts the content key and sends it back to be encrypted by a public key of the end user. Supplying the content key to the clearinghouse, along with the other information contained in the Order SC650, appears to be essential to the function of Downs. Modifying Downs so that only the parameters are sent would not work, as the

clearinghouse has no ability to generate the key and no authority to decrypt the key without the parameters. It is respectfully submitted that the examiner's analogy to breaking in two a two-part element is false in this case. Since the reasoning of the rejection of each of the previously pending claims is premised on this modification of Downs, it is submitted the rejection of all the previously pending claims is in error for at least this reason.

Independent claims 11, 21 and 34 have been amended to clarify the invention and not for purposes of narrowing the claim or distinguishing it over the prior art of record. It is submitted that independent claims 11, 21 and 34 are allowable over the prior art of record. Conforming amendments have been made to the dependent claims. These amendments are not intended to narrow the scope of the limitations existing in the claims, and are not being made in response to their rejection. It is submitted that each of these claims are allowable for at least the reason that their respective base claims are allowable.

#### New Claims 43-61

Claim 43 is based on proposed claim 43 that was discussed during the interview on May 5, 2010, and, it is submitted, is allowable over the art of record for the reasons discussed during the interview. Claims 44-51 depend on claim 43 and, it is submitted, are allowable for at least the same reasons. Claims 53-61 are computer readable media claims (excluding signals) that correspond to claims 44-51 and thus should be allowable for the same reasons. Claim 52 depends on claim 11 and should be allowable for at least the reason that claim 11 is allowable.

#### Interview Summary

Applicants thank Examiner Coppola for the courtesy of an interview on May 5, 2010. Proposed amendments to the previously presented claims were considered, as well as a proposed new claim 43. The primary reference applied to reject the previously presented claims, Downs, was also considered. No agreement was reached on whether the proposed amendments to the previously presented claims overcame the rejection of these claims under 35 U.S.C. §103. However, It is believed that agreement was reached with respect to proposed claim 43. The examiner indicated

that claim 43 was distinguishable over the art applied to the rejection of the previously submitted claims.

In view of the above amendment, Applicants respectfully submit that the present application is in condition for allowance. A notice to that effect is respectfully requested.

Applicants are paying the three-month extension fee and any additional claims fee via credit card at the time of electronic filing of this paper. Applicants believe no further fees are due for the filing of this paper. However, the Director is hereby authorized to charge any additional fees due or credit any overpayments made to Deposit Account No. 070153 of Gardere Wynne Sewell LLP, referencing 125542-1006.

Dated: May 6, 2010

Respectfully submitted,

By           /Marc A. Hubbard/            
Marc A. Hubbard  
Registration No.: 32,506  
GARDERE WYNNE SEWELL LLP  
1601 Elm Street, Suite 3000  
Dallas, Texas 75201-4761  
(214) 999-4880  
Attorneys For Applicant